

REMARKS

Claims 5-7, 9, 10, 12, 13, 15, and 16 are pending in the present application.

At the outset, Applicants wish to thank Examiner Levy for the helpful and courteous discussion with their undersigned Representative on October 17, 2003. The content of this discussion is reflected in the amendments and remarks set forth herein.

The rejection of Claims 5-7, 9, and 10 under 35 U.S.C. §102(b) over Rode et al is obviated by amendment.

Applicants have amended Claim 5 to specify “said ruminant is fed said feed in an amount sufficient to result in a urinary pH of said ruminant of 6.5 to 5.5”. This limitation corresponds to original Claims 8, 11, 14, and 17, which the Examiner has recognized to be free of the disclosure of Rode et al. As such, Applicants submit that Claim 5 (and the dependent claims therefrom) are now free of the disclosure of Rode et al. Specifically, Applicants note that the standard for determining anticipation requires that the reference “must teach every element of the claim” (MPEP §2131). Therefore, the absence of any disclosure by Rode et al of the urinary pH of the ruminant would necessarily make this reference fail to anticipate the present invention.

Applicants request withdrawal of this ground of rejection.

The rejection of Claims 5-17 under 35 U.S.C. §103(a) over Rode et al or Sato et al, in view of Itagaki et al and further in view of Davidson, is obviated by amendment.

The present invention provides a method for anion regulation in a ruminant, comprising feeding to a ruminant in need thereof a feed which *consists essentially of* an effective amount of a neutral hydrochloride of an amino compound wherein said ruminant is fed said feed in an

amount sufficient to result in a urinary pH of said ruminant of 6.5 to 5.5 (Claim 5). Applicants note that the recitation of “consists essentially of” excludes materials that materially affect the basic and novel characteristics of the claimed invention.

Applicants submit that this amendment distinguishes the present invention from the art of record. Citing In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974), MPEP §2143.03 states: “To establish a prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” Applicants submit that the disclosures of Rode et al, Sato et al, Itagaki et al and Davidson fail to meet this requirement, and as such the artisan would have no reasonable motivation to perform the method of the present invention or any reasonable expectation of the advantageous obtained thereby.

For the foregoing reasons, Applicants submit that the present invention is not obvious in view of the combined disclosures of Rode et al, Sato et al, Itagaki et al and Davidson. Withdrawal of this ground of rejection is respectfully requested.

The rejection of Claims 5-7, 9-10, 12, 13, 15, and 16 under 35 U.S.C. §112, first paragraph, is obviated by amendment.

Applicants have amended Claim 5 to specify “said ruminant is fed said feed in an amount sufficient to result in a urinary pH of said ruminant of 6.5 to 5.5”. This limitation corresponds to original Claims 8, 11, 14, and 17, which the Examiner has deemed to be fully enabled. As such, Applicants submit that Claim 5 (and the dependent claims therefrom) are now enabled. Therefore, the rejection of these claims should be withdrawn.

Acknowledgement that the rejection of Claims 5-7, 9-10, 12, 13, 15, and 16 under 35 U.S.C. §112, first paragraph, has been withdrawn is solicited.

Applicants submit that the present application is now in condition for allowance.

Early notification of such action is earnestly solicited.

Respectfully submitted,

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